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BEFORE THE ARIZONA CORPORATION COMMISSION

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ARIZONA CORP. COMM
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IN THE MATTER OF THE APPLICATION
OF SULPHUR SPRINGS VALLEY
ELECTRIC COOPERATIVE, INC. FOR A
HEARING TO DETERMINE THE FAIR
VALUE OF ITS PROPERTY FOR
RATEMAKING PURPOSES, TO FIX A
JUST AND REASONABLE RETURN
THEREON, TO APPROVE RATES
DESIGNED TO DEVELOP SUCH RETURN
AND FOR RELATED APPROVALS.

DOCKET NO. E-01575A-08-0328

IN THE MATTER OF THE APPLICATION
OF SULPHUR SPRINGS VALLEY
ELECTRIC COOPERATIVE, INC. FOR AN
ORDER INSTITUTING A MORATORIUM
ON NEW CONNECTIONS TO THE V-7
FEEDER LINE SERVING THE
WHETSTONE, RAIN VALLEY, ELGIN,
CANELO, SONOITA, AND PATAGONIA,
ARIZONA AREAS.

DOCKET NO. E-01575A-09-0453

INTERVENORS' EXCEPTION TO
RECOMMENDED OPINION AND
ORDER

Arizona Corporation Commission

DOCKETED

JUN 11 2010

RECOMMENDED OPINION AND ORDER

DOCKETED BY

ADS

The Recommended Opinion and Order thoroughly outlines the process that took place in this matter. Each party's position is appropriately stated. What has not been conveyed in this Recommendation is the intent of the Commissions' orders. Yes, Sulphur Springs Valley Electric Cooperative ("SSVEC") complied with the order to conduct a feasibility study and yes, SSVEC conducted "public forums" and submitted

1 reports to the Commission. But if the Commission's intent was as stated in Decision
2 No. 71274,

3 "We need to ensure that the goals of some in the local communities who
4 want more investment in renewable generation to mitigate the need for the
5 project have been **fully considered** by the Cooperative."
6

7 then SSVEC's actions have not been consonant with the Commission's Order. It has
8 been clear from the beginning that SSVEC is not comfortable with the needs and
9 opportunities of the 21st century – and has no intention of entertaining any solution
10 except construction of the 69kV line through the Babacomari Ranch. Neither the
11 Feasibility Study nor the Public Forums did anything more than nominally fulfill the
12 requirements imposed by the ACC.

13 The Feasibility Study was based on a Statement of Work and RFP that required
14 Navigant Consulting to only consider "firm capacity equivalent to a new transmission
15 line." *This restriction immediately prevented any full consideration of renewable*
16 *generation*, although Navigant had to be reminded of this by SSVEC when their draft
17 report included a recommendation that energy storage technology should be considered
18 as is evident from Shlatz testimony referring to a statement in the draft Feasibility Study:

19 On page 224-225: Susan Scott: "in the draft F.S. the statement "energy
20 storage technology should nonetheless be considered by SSVEC as a
21 solution" was deleted from the final draft ...Were you instructed to take
22 that sentence out?" Shlatz: "It was brought to my attention that the
23 sentence was not consistent with the RFP requirements."
24

25 While the public forums were conducted to the letter of the Decision, those meetings
26 were structured as to preclude any meaningful public dialogue and input from informed
27 residents, particularly in reference to generation of renewable energy.

1 Has SSVEC demonstrated an immediate need to construct the 69kV line? **No.**
2 On the contrary, SSVEC filed a Motion to Stay the Moratorium. Though they plead an
3 impending crisis, SSVEC took no steps last winter (2009-2010) to mitigate a potential
4 outage caused by overload, and have not taken steps suggested in the Feasibility Study
5 to prevent a potential outage for the winters of 2010-11 and 2011-12, before the 69kV
6 line and substation could be brought on line. Surely, if there was an emergency,
7 SSVEC would have continued their efforts to impose a Moratorium and would have
8 implemented the recommendations Navigant outlined in the Study to prepare for such
9 an emergency.

10 The Arizona Corporation Commission must determine whether SSVEC:

- 11 1) has shown that an emergency exists that would justify bypassing the
12 established process,
13 2) is acting in the public's best interest, and
14 3) is behaving in a fiscally responsible fashion.

15 Allowing SSVEC to proceed with immediate construction based on the flimsy
16 evidence presented at this hearing will violate all three tenets.

17 Understanding the need to be brief, we have not raised exception to each
18 instance where SSVEC's position is cited as a truth in the absence of supporting facts
19 or counter to factually information presented. We have, instead, opted to file formal
20 exception to just a few of the many examples illustrating the fallacy of this
21 Recommendation and Opinion and Order.

22 In Finding of Fact ("FF") No. 66 SSVEC cites the testimony of Mr. Shlatz at the
23 hearing about whether the current situation in the Affected Areas is an "emergency"

1 "I just talked about the performance problems, the reliability problems, power
2 quality, power surges, voltage variability, perturbations, limited capacity. All
3 those taken together suggest a very severe problem. And it would not be
4 taken out of context to suggest that those are near emergency conditions."
5

6 Mr. Shlatz's own testimony does not declare an emergency in describing the current
7 situation that would mandate immediate construction of the 69kV line. In fact, the
8 Feasibility Study offers many suggestions that would mitigate the need for the line at a
9 far lower cost to the members of the Cooperative.

10 In FF No. 67, SSVEC asserts that additional delay will only increase the risk of
11 outages and unreliable service as well as increase costs to SSVEC members. There
12 are no facts to support that a delay will increase the risk of outages and unreliable
13 service. In fact, according to the Feasibility Study, few outages are the result of an
14 overload on the V7 line; most outages affect from 1-5 customers and are due to
15 transformer or pole riser fuses. This type of outage will occur regardless of whether
16 power is supplied via the V7 or 69kV line. To plead that a delay will increase the costs
17 could only be in reference to the increased attorney fees SSVEC will expend to fight its
18 own customers. A short delay in order to make the correct decision is financially astute.
19 Rushing to the wrong conclusion could, in this case, condemn SSVEC members to
20 higher than needed rates for years.

21 In FF No. 68, SSVEC argues that solutions offered by the Intervenor would not
22 provide firm capacity comparable to that provided by the new 69kV line. This may be
23 true, but misses the point. SSVEC has still not demonstrated that a 69kV line is
24 necessary to meet the needs of the community now, or in the future – firm capacity of a
25 69kV line is overkill, expensive overkill. The Feasibility Study showed that only a small
26 amount of additional power (maximum 2,000 kW) will be needed in the next 20 years.

1 The cost for this relatively small amount of electricity can be met much more
2 economically than by construction of a 69kV line.

3 The solutions presented by the Intervenor are not “a myriad of short-term, stop-
4 gapped, unreliable measures that do not fully address the issues.” It is common
5 practice for many utility companies around the United States to utilize the very
6 technology the Intervenor presented to address peak power issues and provide
7 reliable electricity: a natural gas peaker plant. Many communities, cooperatives, and
8 countries have already integrated renewable energy technologies into their energy
9 distribution system. To suggest that these technologies are “unproven and commercially
10 unavailable” indicates SSVEC is sadly out of date.

11 In FF No. 69, SSVEC asserts that the public forums were conducted as required
12 by Decision No. 71274. Perhaps so, but was the intent of the public forums to just
13 present the 69kV line or was it to also present alternatives? Alternatives were given
14 beyond short shrift. The alternatives to the 69kV line were presented on one slide that
15 was virtually unreadable and were quickly dismissed as not viable. Anyone in
16 attendance would attest to the lack of opportunity for dialogue and free exchange of
17 ideas. Both meetings were carefully scripted and controlled by SSVEC – and crafted to
18 downplay the opportunities available using renewable energy. The meetings were
19 public but they were certainly not forums!

20 In FF No. 70, SSVEC claims that 70 percent of its members in the Affected Area
21 who responded to the telephone poll support the 69kV line. What they failed to mention
22 was the bias of the telephone poll in feeding erroneous facts to the callers such as

1 “renewable energy is a short term fix” and that the V-7 feed line has “270 hours of
2 outages per year” even before any questions were asked.

3 In FF No. 71, SSVEC states that further delay in constructing the 69kV line may
4 result in potential loss of Clean Renewable energy Bond (“CREB”) and American
5 Recovery Reinvestment Act (“ARRA”) money. The CREB money is for the design and
6 construction of a 750 kW solar electric system at the new Sonoita substation. SSVEC
7 presented NO evidence to show construction of the 69kV line is a prerequisite for
8 receiving these funds. Nothing is preventing SSVEC from starting the design of this
9 solar electric system for the new Sonoita substation.

10 In FF No. 72, SSVEC notes that testimony of Staff’s witness, Mr. Abinah, was not
11 contested at the hearing. What SSVEC fails to mention is Mr. Abinah’s previous
12 testimony when he recommended that the Company educate and encourage customers
13 on energy efficiency and renewable energy. In this previous testimony, he goes on to
14 state that this would help mitigate the need for the line.

15 In FF No. 73, SSVEC argues that responsibility for the decision on how to
16 construct and operate its distribution system rests with SSVEC. While that is true,
17 SSVEC also has a responsibility to their members to be fiscally responsible and do what
18 is in the best interest of all of their cooperative members. Spending millions on a line
19 when other more cost effective options are available is not appropriate and will place an
20 unnecessary financial burden on all of its cooperative members.

21 FF No. 94 mentions staff’s recommendation that SSVEC not construct its own
22 generation because the costs outweigh the benefits and because the process would be
23 lengthy. We respectfully disagree with staff and assert the short term costs of local

1 generation of renewable energy can be offset by grants and the long term benefits of
2 local generation will be perpetual. In addition, portable peaker plants are available now
3 that would mitigate any problems when/if brief periods occur when the need for
4 electricity exceeds the delivery through the existing line.

5 FF No. 100 states the Report on the public forums meets the requirements of
6 Decision No. 71274.

7 Decision No. 71274 stated "...by July 30, 2010, SSVEC, as a matter of
8 compliance, shall docket a report discussing the outcome of the public
9 forums and also discussing how it plans to incorporate the reasonable and
10 effective renewable energy proposals resulting from the public forums."

11
12 Simply filing a report did meet the requirement of filing a report, but the content of the
13 report did not address the Commission's intent in requiring SSVEC to conduct the public
14 forums. The majority of the content of the public forums was spent defending SSVEC's
15 proposed 69kV line, not soliciting community input on alternative energy solutions for
16 incorporation into the report.

17 FF No. 101 states that the Feasibility Study included an analysis of how
18 renewable generation could be used in the Affected Area. Because of the restriction to
19 only consider firm capacity, the Feasibility Study concluded that renewable generation
20 was not a viable option – unless, however, one remembers that SSVEC insisted the
21 reference to storage be deleted from the draft Study. According to the Judge Rodda's
22 Analysis and Conclusions, the Study's premise that "considered technologies be mature
23 and commercially available was not unreasonable" is, itself, not unreasonable – what is
24 unreasonable was the Study's definition of what constitutes mature and commercially
25 available technology.

1 According to FF No. 103

2
3 The Feasibility Study did not claim that there were no other ethically viable
4 solutions, but that given the existing problems of capacity and performance of the
5 V-7 feeder, the planned upgrade, as proposed by the Cooperative, was the
6 preferred solution.
7

8 We must disagree with this assessment by the consulting firm, as there are other
9 alternatives that can address existing problems of capacity and performance. Granted,
10 those alternatives may be more complex than simply constructing a new line. However,
11 the suggestions posed by the Intervenors addressed the issues using readily available
12 technology and equipment without the concomitant costs to the environment of
13 continued reliance solely on energy generated from coal.

14 Regarding FF No. 108, the Study states overloads to the V7 line may occur in the
15 early hours of an occasional cold winter morning. Both the Study and proposals set
16 forth by the Intervenors suggest installation of peaker plants to meet these rare and
17 short term events. Peaker plants are used by many rural cooperatives for just this
18 purpose – they provide an inexpensive alternative to overbuilding lines. The
19 combination of peaker plants for brief periods of heavy use coupled with demand side
20 management and renewable energy will provide the affected area with safe, reliable
21 energy at a far lower cost to the members than construction of the 69kV line. In addition
22 – if there truly is a winter emergency looming – peaker plants are portable and
23 immediately available.

24 According to FF No. 112, Staff's recommendations are reasonable. Staff
25 believes that none of the alternatives are viable solutions to the current problem either
26 due to timing issues, cost effectiveness, or environmental concerns and reliability. We
27 disagree with this opinion – renewable energy and a natural gas peaker plant would

1 solve the performance and reliability issues immediately, at less cost, and with no
2 negative impact to the environment.

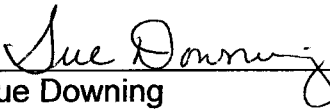
3 4 **CONCLUSION**

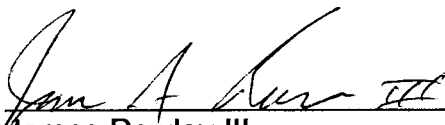
5 The Commission's overriding mission is to determine what is in the best interest
6 of the public. Is it in the public's best interest to spend millions of ratepayer's money
7 when less costly alternatives could be installed in a timelier manner? **NO!** It is fiscally
8 irresponsible of SSVEC to burden its members with this unnecessary cost. SSVEC
9 has failed to prove the immediate need for construction of the 69kV line. The cost is
10 overkill to the ratepayers when reliable, more timely and cost effective solutions exist.


11 12 **RECOMMENDATION**

13 We respectfully request the Commission **DENY** SSVEC's Section 40-252
14 petition to "immediately approve the 69kV line" and that the re-opened rate case
15 continue. During this time we propose holding a number of real public forums in the
16 Affected Areas to fully consider each one of the alternative solutions outlined in the
17 Feasibility Study with particular emphasis on renewable energy and demand side
18 management. Further, we propose surveying customers in the Affected Areas to
19 determine interest in participating in Time of Use, Demand Side Management and other
20 programs that would reduce energy consumption. Attachment "A" outlines our proposal
21 and timeline for fully exploring alternative energy solutions within the Affected Areas.

1
2
3 Respectfully submitted on this 10th Day of June, 2010:
4
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Attachment A

ATTACHMENT A

A Recommended Action Plan to Resolve the V7 Feeder Issues if the Commission Denies the Section 40-252 Petition.

If the Commission Denies SSVEC's Section 40-252 petition, considering the prudence of minimizing cost to ratepayers, it is recommended that the Commission order SSVEC to commence solving these issues with the installation of a Renewable Energy Hybrid Plan that will resolve capacity and reliability problems. The hybrid plan should integrate solar photovoltaic and distributed natural gas generation, electricity storage, and several Demand Side Management (DSM) plans based on the Feasibility Study analysis.

As Intervenors have received a bid from a reputable engineering firm to install 1 MW PV with 1MW Storage in Sonoita, along with a 1MW natural gas generator located in Patagonia. The firm is willing to fast track the installation to address the coming winter peaking issues. See Intervenors' Closing Brief Exhibit #3 for details. SSVEC should follow up on these bids to meet their specifications as soon as possible.

Intervenors have also received information that a prescriptive easement can be upgraded if the present use is not changed, i.e. a distribution line as opposed to a "changed purpose" such as the "69kV Transmission line", proposed by the utility. Replacing the existing line with a larger conductor or an upgraded double-circuit 24.9 kV line would provide twice the existing capacity to resolve capacity problems on this line.

1 Further, detailed consideration and information concerning these upgrades for
2 the 24.9 kV distribution line from Mustang Corners, within the prescriptive easement
3 rights, as an additional measure should be undertaken.

4
5 **ACTION ITEMS FOR SSVEC:**

6
7 SSVEC shall submit a report to the Commission by September 1, 2010 detailing
8 the following:

9 A plan of action with milestones, using MicroSoft Project or equivalent,
10 to resolve local V7 issues in the fall 2010 with a Distributed Energy
11 Plan, to address any shortfalls of energy supply, reliability and quality
12 for the coming winter, with an operational date of 15 November 2010
13 or earlier.

14
15 **THE DISTRIBUTED ENERGY PLAN SHOULD INCLUDE:**

- 16
17 1) Proposal for integration of the 750 kW to 1 MW PV array with a 1 MW
18 storage installation for Sonoita substation property.
19
20 2) Proposal for integration of at least a 1 MW natural gas generation
21 capability for SSVEC customers, located on the SSVEC Patagonia
22 property, along with an agreement with UNS Gas for natural gas
23 distribution to SSVEC.

1 SSVEC SHALL ALSO SUBMIT:

2
3 1) An aggressive DSM plan to the Commission no later than 1 August
4 2010 for implementation in mid-September for building and water heat
5 conversions from electric heating systems to propane, kerosene, or
6 heat storage to reduce load during hours of highest demand in the
7 SSVEC service area including the V7 feeder system.

8
9 2) A Report on the number and capacities of Renewable Energy solar
10 and wind installations in the affected area with a plan to fully integrate
11 these residential and business RE systems into V7 feeder Distribution
12 Energy Plan and system.

13
14 3) A Detail plan for educating and implementing the resultant Demand
15 Side Management and Time of Use (TOU) programs for all SSVEC
16 customers with emphasis on the V7 feeder area to effectively reduce
17 load during times of peak use.